

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CIVIL REVISION No.57 of 2011**

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1 (A) Urmila Devi (wife)  
1 (B) Chandan Kumar, son  
1 (C) Deepa Kumari  
1 (D) Reena Kumari, both daughters  
All resident of Mohalla, Moazzam Kachi- Sarai Road near Kanhauli  
Naka, P.S. Town Police Station, District, Muzaffarpur

... .. Petitioner/s

Versus

Sri Lalbabu Sah, son of late Laxmi Sah, resident of Mohalla, Moazzam Kachi,  
Sarai Road near Kanhauli Naka, P.S. Town, Police Station, District,  
Muzaffarpur

... .. Opposite Party

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**Appearance :**

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|----------------------|---|---------------------------------------------------------------|
| For the Petitioner/s | : | Mr. B. K. Sinha, Sr. Advocate<br>Mr.Md. Anis Akhtar, Advocate |
| For the Respondent/s | : | Mr. Jai Prakash Verma, Advocate                               |

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**CORAM: HONOURABLE MR. JUSTICE S. KUMAR**  
**ORAL JUDGMENT**

**Date : 22-04-2019**

Heard parties.

This civil revision application has been filed for setting aside the order dated 22.02.2011 passed in Miscellaneous Case No.7/2005 by Sub-Judge, 1<sup>st</sup>, Muzaffarpur by which the learned court below had decided the question of maintainability and limitation as a preliminary issue and has held that miscellaneous petition is barred by limitation and is not maintainable.

Miscellaneous case was filed in the Court below against the Award dated 24.11.2002 under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to



as “the Act”) and the issue was whether for setting aside the Award or for execution of said Award, District Judge is competent authority or Sub-Judge is competent authority. A petition for execution of Award was filed before the Execution Munsif, Muzaffarpur in which objection was raised by the petitioner regarding maintainability of execution which was dismissed and against that order, revision was filed before the Hon’ble High Court which was subsequently dismissed as withdrawn. The issue regarding which is the principal civil court of original jurisdiction has been decided by this Court in **Shivam Housing Pvt. Ltd. & Anr. Vs. Thakur Mithilesh Kumar Singh [2015(3)PLJR 876]** in which it has been held that District Judge is the Principal Civil court of original jurisdiction and both the petitions either for setting aside the arbitral Award or execution of the same under Sections 34 and 36 of Act has to be filed before the same court i.e, the District Judge.

In the present case, the Sub-Judge, 1<sup>st</sup> Muzaffarpur vide order dated 20.02.2011 which has been impugned in civil revision has held that the petition filed by the petitioner for setting aside the Award under Section 34 of the Act is maintainable before the Sub-Judge and not the District Judge as



Sub-Judge is the Principal Civil Court of original jurisdiction. Learned court below has further held that petition filed by petitioner for setting aside the Award was barred by limitation and Section 5 of Limitation Act to condone the delay is not applicable in Arbitration matter and has dismissed the application as being barred by limitation.

It has been submitted that the petition for setting aside the Award was filed within limitation period prescribed for the same from the date of receiving of Award as such the order of court below suffers from error. However, since the Hon'ble High Court has already decided the issue that both the matters have to be decided by the District Judge or Addl. District Judge on transfer and is to be decided by the same court.

Accordingly, the order dated 20.02.2011 is set aside and the matter is remanded to the court of District Judge, Muzaffarpur who will either decide the matter himself or transfer the matter to any Additional District Judge court to be decided in terms of judgment and order passed by this Court in **Shivam Housing Pvt. Ltd. (supra)**.

This civil revision application is disposed of in terms of observation and direction as made above.



Let the Lower Court Records be sent immediately to  
the court concerned.

**(S. Kumar, J)**

Sanjay/-

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| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 29.04.2019 |
| Transmission Date |            |

